

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In the Patent Application of

Richard A. SUNSHINE et al.

Serial No.: 10/686,798

Filed: October 16, 2003

For: INTEGRATED LAUNDRY CENTER

Group Art Unit: 1746

Examiner: Perrin, Joseph L.

APPEAL BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief pursuant to 37 C.F.R. § 41.37 in support of Applicants' appeal of the Final Rejection of the Examiner, mailed January 17, 2006, of claims 1, 10-24, and 45-48. Each of the topics required by 37 C.F.R. § 41.37 is presented herewith and is labeled appropriately.

I. REAL PARTY IN INTEREST

Whirlpool Corporation, having offices in Benton Harbor, Michigan ("Whirlpool") is the real party in interest of the present application. An assignment of all rights in the parent application for the present application to Whirlpool was executed by the inventors and recorded in the U.S. Patent and Trademark Office at Reel 012048, Frame 0889.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the present application of which Appellants, Appellants' legal representatives, or Assignee are aware.

III. STATUS OF CLAIMS

The application has 48 claims, which are presented in the Appendix. Claims 1, 10-24, and 45-48 are currently pending and the remaining claims, claims 2-9 and 25-44, have been withdrawn from consideration due to a restriction requirement. Of the withdrawn claims, claims 2-9 and 25-33 depend directly or indirectly from claim 1, which links the inventions defined by these claims. Thus, upon allowance of claim 1, the restriction requirement with respect to claims 2-9 and 25-33 shall be withdrawn. The pending claims, claims 1, 10-24, and 45-48, have been twice rejected by the Examiner. Accordingly, the Appellants hereby appeal the final rejection of claims 1, 10-24, and 45-48.

IV. STATUS OF AMENDMENTS

Subsequent to the final Office Action dated January 17, 2006, no amendments have been made to the claims.

V. SUMMARY OF CLAIMED SUBJECT MATTER

As illustrated in several figures of the application, such as Figs. 1, 3, and 21, an integrated laundry center **20** comprises an integrated cabinet assembly **22** comprising a plurality of interconnecting panels that define a plurality of discrete spaces **24**, *Application*, p. 4, ln. 12-14; p. 13, ln. 12-21. The discrete spaces **24** include a washer discrete space **24a** sized to house a washing machine **26** and a clothes dryer **24b** discrete space sized to house a clothes dryer **28**. *Id.*, p. 13,

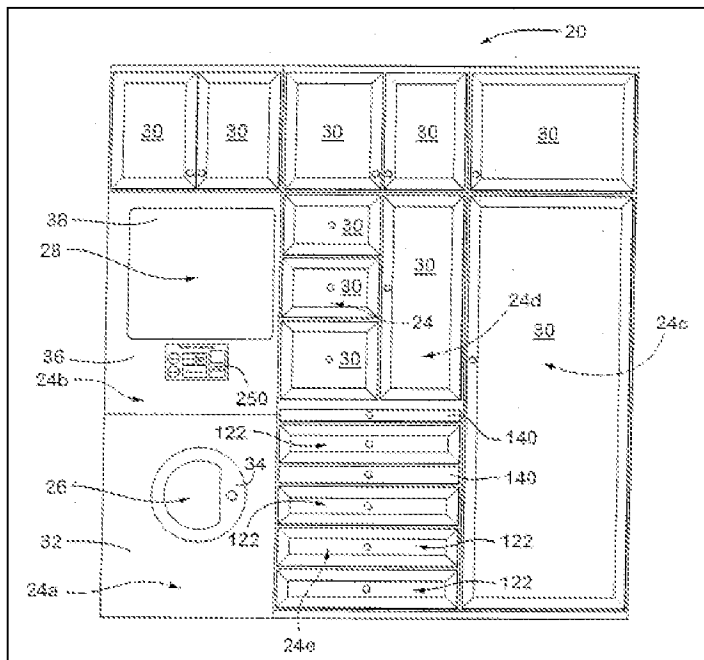


FIG. 1 OF THE APPLICATION

ln. 22-p. 14, ln. 1; p. 16, ln. 11-17.

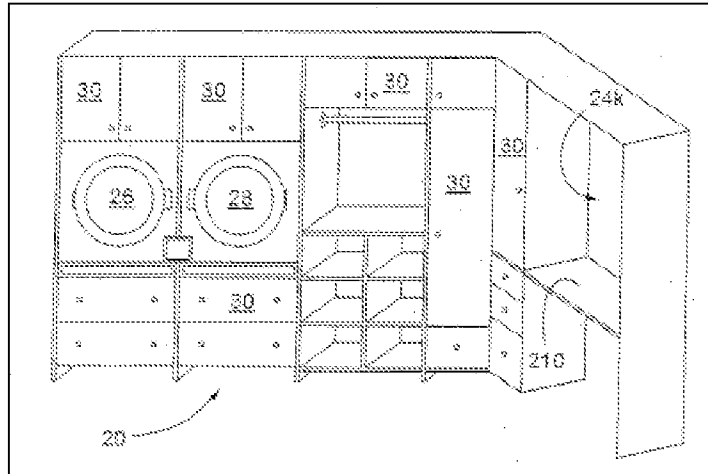


FIG. 3 OF THE APPLICATION

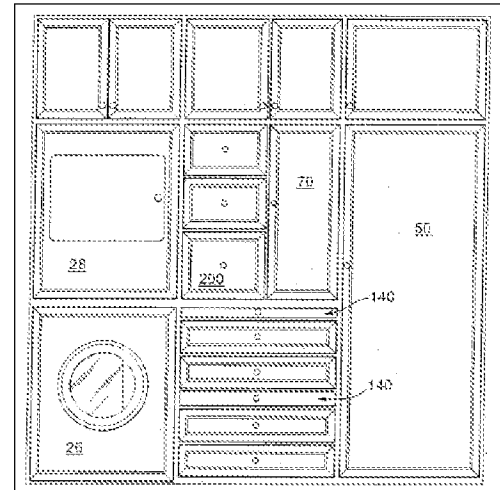
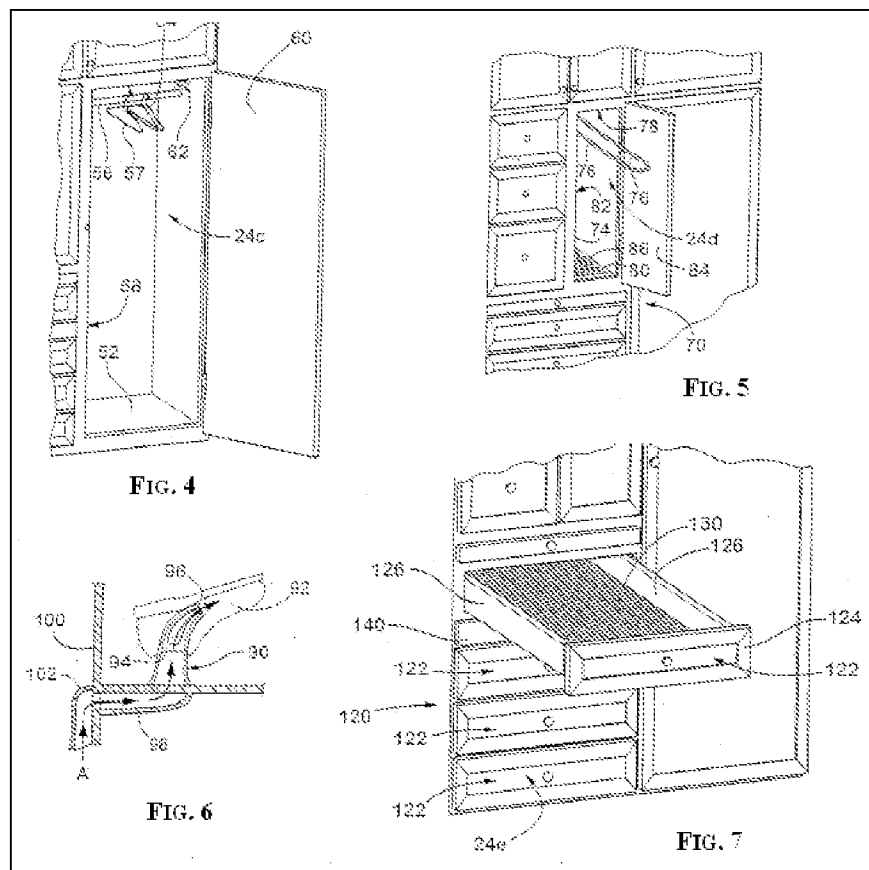


FIG. 21 OF THE APPLICATION

As shown in Figs. 4-7, the discrete spaces **24** further include at least one supplemental drying discrete space **24c**, **24d**, **24e**. *Id.*, p. 17, ln. 11-13; p. 18, ln. 7-8; p. 19, ln. 17-18; p. 21, ln. 12-15; p. 21, ln. 18-21.



FIGS. 4-7 OF THE APPLICATION

The integrated laundry center further comprises an air moving device **306** arranged to deliver air to the supplemental drying discrete space **24c**, **24d**, **24e**, as depicted in Figs. 17 and 18. *Id.*, p. 34, ln. 20-23; p. 35, ln. 7-9; p. 37, ln. 14-16.

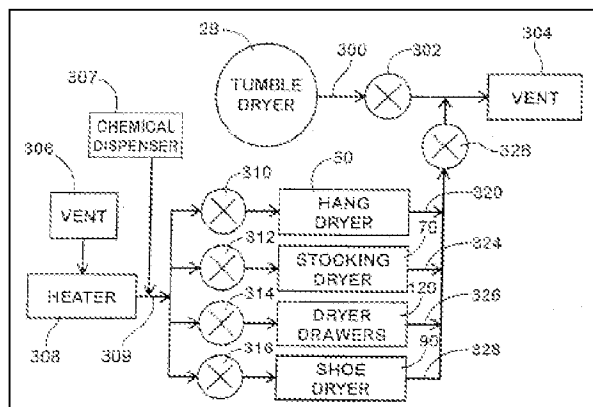


FIG. 17 OF THE APPLICATION

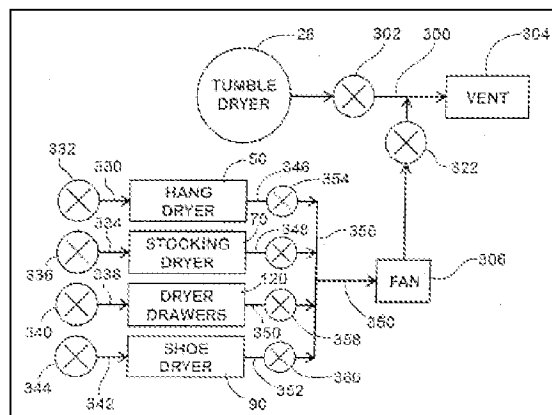


FIG. 18 OF THE APPLICATION

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. In the Office Action of January 17, 2006, the Examiner rejected claim 45 under 35 U.S.C. § 112, ¶ 1 as allegedly being unpatentable for failure to meet the enablement requirement. Appellants disagree with the Examiner's assertion that original disclosure does not enable the invention of claim 45.

2. In the Office Action of January 17, 2006, the Examiner rejected claims 1, 10-24, and 45-48 under 35 U.S.C. § 112, ¶ 2 as allegedly being indefinite. Appellants disagree with the Examiner's assertion that claims 1, 10-24, and 45-48 are indefinite.

3. In the Office Action of January 17, 2006, the Examiner rejected claims 1, 10, 12-14, 20, and 45-48 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Japanese Patent Application Publication No. 09-010492 to Sanka ("Sanka") in view of Japanese Patent Application Publication No. 07-088299 to Toshio ("Toshio '299") or Japanese Patent Application Publication No. 07-096096 to Toshio ("Toshio '096"), as evidenced by U.S. Patent No. 5,466,058 to Chan ("Chan"). Appellants disagree with the Examiner's assertion that the Sanka, Toshio '299, Toshio '096, and Chan references render claims 1, 10, 12-14, 20, and 45-48 obvious to one skilled in the art.

4. In the Office Action of January 17, 2006, the Examiner rejected claims 11, 15, 16, and 21-24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sanka in view of Toshio '299 or Toshio '096 and further in view of U.S. Patent No. 502,237 to Proctor ("Proctor"). Appellants disagree with the Examiner's assertion that the Sanka, Toshio '299, Toshio '096, and Proctor references render claims 1, 10, 12-14, 20, and 45-48 obvious to one skilled in the art.

5. In the Office Action of January 17, 2006, the Examiner rejected claims 17-19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sanka in view of Toshio '299 or Toshio '096 and further in view of U.S. Patent No. 5,720,108 to Rice ("Rice"). Appellants disagree with the Examiner's assertion that the Sanka, Toshio '299, Toshio '096, and Rice references render claims 17-19 obvious to one skilled in the art.

VII. ARGUMENTS

Rejection Under 35 U.S.C. § 112

1. Rejection under 35 U.S.C. § 112, ¶ 1

The Examiner has rejected claim 45 under 35 U.S.C. § 112, ¶ 1 and asserts that the specification does not reasonably provide enablement for a cabinet assembly comprising both interconnecting panels and interconnecting frame elements. In the Examiner's Response to Arguments in the January 17, 2006 Office Action, the Examiner states that claim 45 is directed to newly introduced subject matter not supported by the original disclosure as filed in "full, clear, and exact terms." It is suggested that the limitation was newly introduced in the amendment of October 18, 2004 and is not supported by any disclosed embodiments.

The Appellants respectfully disagree and maintain that the originally filed specification does provide support in "full, clear, and exact terms" for claim 45. First, contrary to the Examiner's assertion, the 'integrated frame structure having a plurality of interconnected frame elements' limitation in claim 45 was included in claim 1 as originally filed and was separated into dependent claim 45 in the preliminary amendment of October 18, 2004 rather than being

newly introduced in said amendment. Thus, this limitation was inherently included in the original application as filed. The limitation of ‘interconnecting panels,’ which is attributed to claim 45 due to its inclusion in claim 1, was not present in claim 1 as originally filed but was added in the amendment of July 27, 2005. Regardless of when the limitations were incorporated into the claims, the combination of the ‘interconnected frame elements’ and the ‘interconnecting panels’ is *fully, clearly, and in exact terms* supported by the text in paragraph [0010] of the originally filed specification: “In one embodiment, the cabinet assembly includes an integrated frame structure having a plurality of interconnected frame elements. A plurality of panels are supported by the frame structure and define the plurality of discrete spaces.” This statement taken alone is sufficient for compliance with the enablement requirement of 35 U.S.C. § 112, ¶ 1 with respect to claim 45.

Moreover, the paragraph [0010] statement can be combined with other disclosure in the originally filed specification for further compliance with the enablement requirement. For example, paragraph [0051] of the application states: “The term ‘cabinet assembly’ is utilized herein to define the structural assembly that is formed from various structural components that can include a framework, enclosure panels, interconnecting panel elements, securing fasteners, support surfaces, mounting and assembly brackets, and the like. As will become apparent to those skilled in the art, the materials and particular structural details of the cabinet assembly 22 can vary considerably and yet fall within the scope of the present invention.” Additionally, paragraph [0075] states: “As illustrated in FIG. 9, and as discussed previously, the components of the laundry center 20 can be modular in construction. For example, each element of the integrated cabinet assembly can comprise a frame such as that of a drawer frame 150 illustrated in FIG. 9. ... Each portion of the laundry center 20 can be formed in this manner using various frame and panel parts.”

“The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation.” *United States v. Telectronics, Inc.*, 857 F.2d 778, 785 (Fed. Cir. 1988). The specification clearly describes one embodiment as comprising a *combination* of (1) an

integrated frame structure having a plurality of interconnected frame elements and (2) a plurality of panels supported by the frame structure and defining the discrete spaces, in accordance with the limitations of claim 45. The specification also clearly describes the cabinet assembly as capable of being formed from a framework, panels, interconnecting panel elements, and the like. A person reasonably skilled in the art of woodworking, cabinetry, and similar arts would be capable of making or using the cabinet assembly from the disclosure, particularly with information known in the cabinetmaking art and readily available to the public. No undue experimentation would be required to create a cabinet assembly comprising a combination of panels, interconnecting panel elements, a framework, and the like, in accordance with the limitations of claim 45. Claim 45 is adequately enabled and patentable. The rejection of claim 45 under 35 USC § 112, ¶ 1 should be withdrawn.

2. Rejection Under 35 U.S.C. § 112, ¶ 2

The Examiner has rejected claims 1, 10-24, and 45-48 under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner asserts that “the claimed discrete spaces ‘sized to house a washing machine’ and ‘sized to house a clothes dryer’ fail to define the metes and bounds of the claimed protection sought.”

Resolution of this issue is controlled by *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 U.S.P.Q.2d (BNA) 1081 (Fed. Cir. 1986). In *Orthokinetics*, the patent at issue disclosed a collapsible pediatric wheelchair that facilitated the placing of wheelchair-bound persons, particularly children, in and out of an automobile. Claim 1 of the patent at issue reads, in pertinent part, “In a wheel chair having a seat portion, a front leg portion, and a rear wheel assembly, the improvement wherein said front leg portion is so dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats thereof....” An alleged infringer defended on the grounds that claim 1 was invalid under 35 USC § 112, ¶ 2 because the phrase ‘so dimensioned as to be insertable through the space between the doorframe of an automobile in one of the seats thereof’ was indefinite. The Federal Circuit disagreed.

A decision on whether a claim is invalid under § 112, 2d para., requires a determination of whether those skilled in the art would understand what is claimed when the claim is read in light of the specification. ... It is undisputed that the claims require that one desiring to build and use a travel chair must measure the space between the selected automobile's doorframe and its seat and then dimension the front legs of the travel chair so they will fit in that particular space in that particular automobile. *Orthokinetics'* witnesses, who were skilled in the art, testified that such a task is evident from the specification and that one of ordinary skill in the art would easily have been able to determine the appropriate dimensions....The claims were intended to cover the use of the invention with various types of automobiles. That a particular chair on which the claims read may fit within some automobiles and not others is of no moment. The phrase "so dimensioned" is as accurate as the subject matter permits, automobiles being of various sizes.... As long as those of ordinary skill in the art realized that the dimensions could be easily obtained, § 112, 2d para. requires nothing more. The patent law does not require that all possible lengths corresponding to the spaces in hundreds of different automobiles be listed in the patent, let alone that they be listed in the claims. (Citations omitted.)

Orthokinetics at 1576.

This is precisely the issue here. Claim 1 calls for a plurality of interconnecting panels that define a washer discrete space sized to house a washing machine and a clothes dryer discrete space sized to house a clothes dryer. This language is conceptually indistinguishable from the language in *Orthokinetics* calling for a leg portion to be 'so dimensioned' as to be insertable through the space between an automobile doorframe and seat. Claim 1 in essence calls for a plurality of interconnecting panels defining a space 'so dimensioned' as to be able to house either a washing machine or a clothes dryer.

In the Response to Arguments in the January 17, 2006 Office Action, the Examiner conveys that the claim language of the present application cannot be correlated to *Orthokinetics*. Essentially, the Examiner infers that *Orthokinetics* does not apply because the claims of the present invention are directed to a structure sized to house a variable sized object rather than an object sized to fit within a variable sized structure, which is the case in *Orthokinetics*. The fact

that the claims of the present application are directed to the structure rather than the object is of no significance; the important issue is that a feature ('discrete space' and 'front leg portion') of the thing being claimed is sized according to something else that is variably sized ('washing machine/clothes dryer' and 'space between the doorframe of an automobile and one of the seats thereof'). Following this reasoning, the claim language of the present application correlates well with *Orthokinetics*.

In *Orthokinetics*, the Court acknowledged that the claims were intended to cover the use of the invention with various types of automobiles and recognized that the patent law does not require that all possible dimensions be listed in the patent, let alone the claims. The phrase 'so dimensioned' is as accurate as the subject matter permits as automobiles are of various sizes. The same is true for the invention of the present application. The Examiner accurately notes that the size of washing machines and clothes dryers greatly range from small portable appliances to large industrial appliances. The size of the appliance is analogous to the size of the automobile, which can have sizes ranging from, for example, compact cars to full size cars to sport utility vehicles to commercial trucks. Thus, the phrase 'sized to house' is as accurate as the subject matter permits.

The Examiner further asserts that the 'sized to house' language provides no upper limit. However, the same logic is applicable to the 'so dimensioned' language in *Orthokinetics* in that it provides no lower limit. The fact that there is no expressed upper limit is of no weight. In both *Orthokinetics* and the current application, while there is no stated lower or upper limit, respectively, there is a recognized practical limit. While both cars and appliances have varying sizes, they also have practical size limits that are well understood by those in the art. *Orthokinetics* recognized this when they stated, "A decision on whether a claim is invalid under § 112, 2d para., requires a determination of whether those skilled in the art would understand what is claimed when the claim is read in light of the specification. ... As long as those of ordinary skill in the art realized that the dimensions could be easily obtained, § 112, 2d para. requires nothing more." *Orthokinetics* at 1576. It is of no issue that an express upper limit is not stated. What is of issue is whether a person of ordinary skill in the art could easily determine the

dimensions of a space based upon a selected washing machine and/or clothes dryer as claimed, especially in light of the specification. The specification clearly shows in Figs. 1, 2, 3, 21, 22, and 23 and describes in the corresponding text various cabinets having discrete spaces sized to house a washing machine and a clothes dryer. Thus, the person of ordinary skill in the art could easily obtain the dimensions for the discrete space defined by the panels of the cabinet such that the discrete space could house a washing machine or dryer.

The Examiner attempts to relate the claims of the present application to *Ex parte Brummer*, 12 U.S.P.Q.2d (BNA) 1653 (Bd. Pat. App. & Inter. 1989) rather than *Orthokinetics*. In doing so, the Examiner cites § 2173.05(b) the Manual of Patent Examining Procedure (MPEP), which summarizes the *Brummer* holding that “a claim may be rendered indefinite by reference to an object that is variable.” However, the same section of the MPEP also discusses *Orthokinetics* to contrast its holding with that of *Brummer*. The MPEP, therefore, does not provide clear guidance regarding such issues as it appears to accept both positions, and one must turn to the case law for precedence and to determine which case law is most applicable. Although the holdings for the two cases conflict, the *Orthokinetics* opinion was issued by the Court of Appeals for the Federal Circuit and is precedent over *Brummer*. As discussed above, the claim language of the present invention correlates well to that of the claims from *Orthokinetics*, and based on the *Orthokinetics* holding, claim 1 is not indefinite and is patentable.

Furthermore, the relevant portion of the *Orthokinetics* holding has been recently affirmed in *Young v. Lumenis, Inc.*, 2005 U.S. Dist. LEXIS 27792 (S.D. Ohio 2005) and *InterTrust Techs. Corp. v. Microsoft Corp.*, 275 F. Supp. 2d 1031 (N.D. Cal. 2003). In *Young*, the alleged infringer asserted that the phrase ‘about three millimeters’ used to describe the relative distance between first and second circumferential incisions in a cat is indefinite and relied primarily on two cases, one of which was *Brummer*. The Court disagreed and relied in part on *Orthokinetics* in rendering the phrase ‘about three millimeters’ definite. In particular, the Court, referring to *Orthokinetics*, stated, “The Federal Circuit, considering similar allegations of indefiniteness, has permitted approximate measurements if the words used are ‘as accurate as the subject matter permits.’” *Young at 24* (citation omitted). The Court determined that the phrase in question was

as accurate as the subject matter permitted, given cat size variation. "...In light of the specification, Figure 2 and variation inherent in cat sizes, the Court finds that one skilled in the art would know where to make the second incision." *Young* at 26. Similarly, the 'sized to house' language in the present application is as accurate as the subject matter permits, given the variation in sizes of washing machines and clothes dryers. In *InterTrust*, the Court also relied on *Orthokinetics* in denying the Indefinite Motion of the alleged infringer. The Court stated, "Nor are the claims at issue indefinite because they use a term that requires an evaluation of the context in which it is used or describes a range of circumstances." *InterTrust* at 1045.

In the January 17, 2006 Office Action, the Examiner further contends that the Applicants' attempt to claim a void based on the intended use of a washer or dryer fails to particularly point out and distinctly claim the cabinet structure. On the contrary, the Applicants are not claiming a void; rather, in claim 1, the Applicants claim an integrated laundry center comprising an integrated cabinet assembly. The integrated cabinet assembly, which is a structural element, is described as having panels, which are structural elements, that define voids (i.e., the discrete spaces), two of which are limited to spaces that are sized to house a washing machine or a clothes dryer. Thus, claim 1 does not actually claim the discrete space; it claims an integrated cabinet assembly comprising a plurality of panels. In fact, in the July 27, 2005 amendment, the interconnecting panels were added to claim 1 to positively claim the structure that defines the discrete spaces of the integrated cabinet assembly. Furthermore, the size limitations on two of the discrete spaces do not merely demonstrate intended use but provide physical size requirements for the integrated cabinet assembly, as discussed above in greater detail.

For at least the reasons discussed above, claim 1 is not indefinite and is patentable, and the rejection of claim 1 under 35 USC §112, ¶ 2 should be withdrawn. Because claims 10-24 and 45-48 depend from claim 1, these claims are also not indefinite for at least the same reasons. Applicants request that the rejection under 35 USC § 112, ¶ 2 be withdrawn, and that claims 1, 10-24, and 45-48 be allowed.

Rejection Under 35 U.S.C. § 103(a)

The following rules for combining prior art references for a finding of obviousness apply to the third, fourth, and fifth grounds of rejection.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been obvious under 35 U.S.C. §103(a) is **a legal conclusion based on underlying findings of fact.**¹

A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention**....Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination** that was made by the applicant....Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

The motivation, suggestion or teaching may come explicitly from

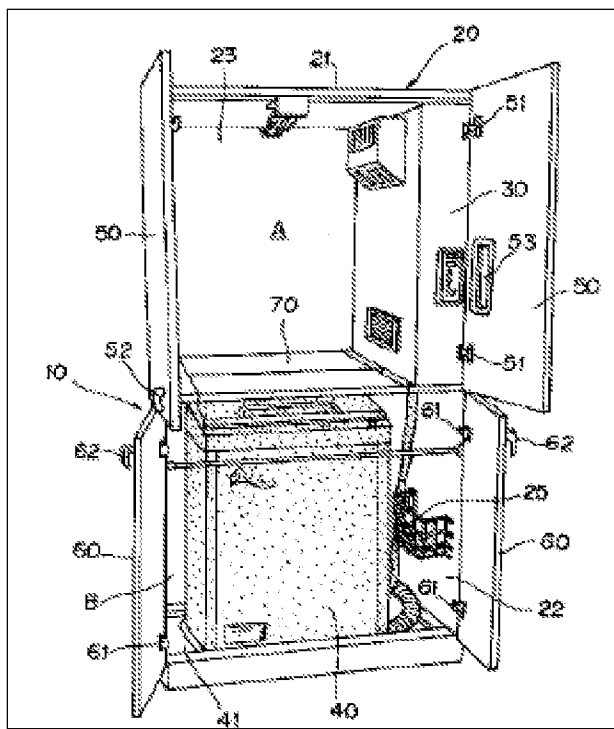
¹ The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).

statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular findings related thereto....Broad conclusory statements standing alone are not "evidence."**

In Re Werner Kotzab, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).

3. Rejection under 35 U.S.C. § 103(a) over Sanka in view of Toshio '299 or Toshio '096, as evidenced by Chan

Sanka discloses a cabinet (20) having a lower section (B) for storing a washing machine (40) and an upper section (A) defining a clothes drying chamber. Items to be dried are placed in the upper section (A), and a clothes dryer (30) circulates air through the upper section (A) to dry the clothes. The upper section (A) and the lower section (B) are separated by a partition (70). Alternatively, the upper section (A) can house other types of clothes dryers, such as a rotating drum type clothes dryer (see paragraph [0032]). The cabinet (20) is said to be effective for use



in a narrow space and excels in space efficiency (see paragraph [0037]).

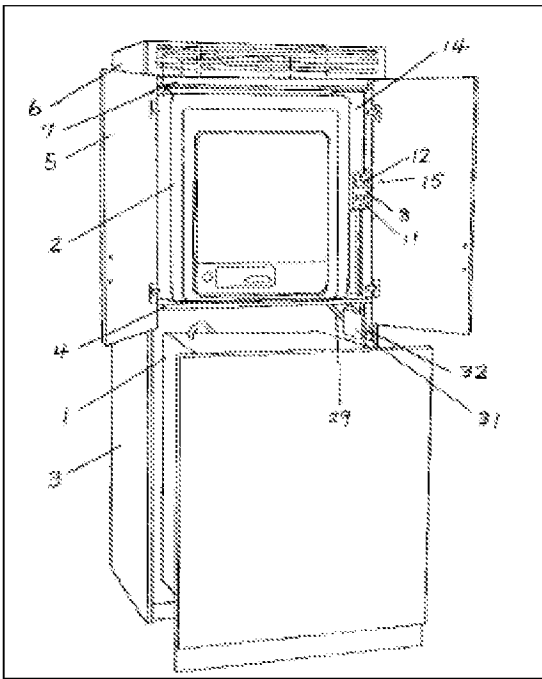


FIG. 1 OF TOSHIO '299

Toshio '096 also discloses a cabinet (3) having a lower chamber for enclosing a washing machine (1) and an upper chamber for enclosing a clothes dryer (2). An air exhausting apparatus (16) is mounted on top of the cabinet (3). A storage cabinet (29) can be attached to the top of the cabinet (3) over the air exhausting apparatus (16). The cabinet (3) is adapted to be used in a utility room, a lavatory, or a kitchen (see paragraphs [0001] and [0002]). The Detailed Description indicates that the compact size and ease of installation of the cabinet (3) are important aspects of the invention.

Toshio '299 discloses a cabinet (3) having a lower enclosure for containing a washing machine (1) and an upper enclosure for containing a clothes dryer (2). The enclosures are provided with doors to conceal the washing machine (1) and the clothes dryer (2). The cabinet (3) enclosing the washing machine (1) and the clothes dryer (2) is adapted to be used in a utility room, a lavatory, or a kitchen (see paragraphs [0001] and [0002]).

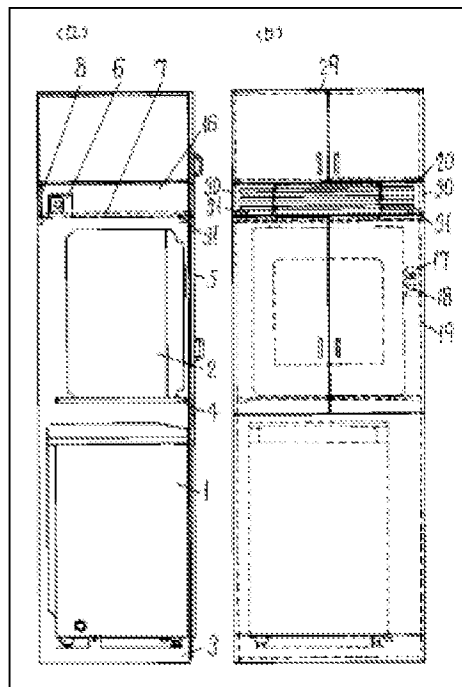


FIG. 7 OF TOSHIO '096

Chan discloses a modular storage system formed from a plurality of stackable rectilinear

storage units. The modules can comprise open storage spaces, drawers, doors, and the like.

Group A: Claims 1, 12-14, 46, and 47

Claim 1 of the present application calls for an integrated laundry center comprising an integrated cabinet assembly comprising a plurality of interconnecting panels that define a plurality of discrete spaces. The discrete spaces include a washer discrete space sized to house a washing machine, a clothes dryer discrete space sized to house a clothes dryer, and at least one supplemental drying discrete space. An air moving device is arranged to deliver air to the supplemental drying discrete space. The Examiner suggests that the invention of claim 1 would be obvious in view of a combination of Sanka with either Toshio '299 or Toshio '096.

a) The combination of Sanka with Toshio '299 or Toshio '096 is improper

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

The Examiner has failed to identify any acceptable motivation, suggestion, or teaching of the desirability of combining Sanka with either Toshio '299 or Toshio '096 to arrive at Applicants' invention. There has been no statement identified in the prior art as to the desirability of the asserted combination, there has been no suitable discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka with either Toshio '299 or Toshio '096. The Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

i) “Forming in one piece an article which has formerly been formed in two pieces” argument does not apply

In the rejection, the Examiner states, “It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the laundry cabinet of Sanka with the laundry cabinet of Toshio ‘299 or Toshio ‘096, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art,” and cited three cases to support this position. This argument, however, possesses critical deficiencies.

(a) Integrated laundry center not shown to exist in prior art as two pieces

First, the integrated laundry center of claim 1 has not been shown to exist in the prior art as two pieces. The integrated laundry center, when equipped with the clothes dryer in the clothes dryer discrete space, has two separate drying functions. Items can be dried in the clothes dryer discrete space and in the supplemental drying discrete space. None of the prior art references show any type of cabinet assembly with both of these functions, either as one piece or two pieces. The Sanka and Toshio references each disclose a laundry cabinet with one drying function; therefore, these references do not show that the integrated laundry center has having been “formerly been formed in two pieces.” The Examiner erroneously concludes that the integrated laundry center has been formerly formed in two pieces simply because the individual claim elements are shown in the prior art in separate references. Following this logic, every claim that consists of elements found in the prior art in multiple references is unpatentable. As stated above in *Werner Kotzab*, the fact that all claim limitations are found in the prior art is not sufficient for rendering a claim obvious.

(b) Cited case law to support “one piece/two pieces” argument not applicable to present invention

Second, the case law cited by the Examiner is not applicable to the present invention. The three cited cases are: *Nerwin v. Erlichman*, 168 U.S.P.Q (BNA) 177 (Bd. Pat. App. & Inter. 1969), *In re Wolfe*, 116 U.S.P.Q. (BNA) 443 (Cust. & Pat. App. 1958), and *In re Howard*, 150 U.S. 164 (Sup. Ct. 1893).

There appears to be no holding in *Nerwin* related to “forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art.” The only potentially relevant discussion in *Nerwin* is directed to whether a single structure can be used to meet two positively stated and separately claimed elements. The Court concludes, “The mere fact that a given structure is integral does not preclude its consisting of various elements.” *Nerwin* at 179. This holding has nothing to do with forming in one piece an article which has formerly been formed in two pieces and put together. The Board of Patent Appeals and Interferences, in an unpublished opinion, agrees. In the decision for Appeal No. 97-1147, which was obtained from the website of the United States Patent and Trademark Office at <http://www.uspto.gov/go/dcom/bpai/decisions/fd971147.pdf> on March 9, 2006, the Board opined:

The Examiner's reliance on and citation of *Nerwin v. Erlichman*, 168 USPQ 177, 179 (Bd. Pat. Int. 1969), which according to the examiner held that "constructing a formerly integral structure in various elements involves only routine skill in the art," appears to us to be misplaced. We find no such "holding" in *Nerwin v. Erlichman*. The only statement in that case which we think may be referred to by the examiner is one which indicates that "[t]he mere fact that a given structure is integral does not preclude its consisting of various elements." This statement, in our view, is a construction of the term "integral," and does not appear to stand for the proposition the examiner now urges.

Appeal No. 97-1147, p. 7, ln. 9-p. 8, ln. 1.

In both the *Wolfe* and *Howard* cases, the objects of interest were shown in a single prior art reference as being made of two pieces. In the former case, *Wolfe* was attempting to patent a dental massage device essentially having a one-piece plastic handle, but the claim read on a prior art reference with the exception of the material used and the one-piece handle. With respect to the handle, the Court determined that it would be obvious to make a two-piece handle into a one piece handle. In the latter case, a patent issued to Beckwith disclosed and claimed a stove grate having a thin closed portion and a thick open portion cast into one piece. A prior art grate in public use before the application for the patent was made contained “all the elements of the Beckwith grate, except that ... it is cast in two pieces, while the Beckwith grate is cast in one

piece.” *Howard* at 169. The Court decided that this does not involve patentable invention.

The *Wolfe* and *Howard* cases can be distinguished from the present application. First, the prior art in the cases show a two-piece object that still function as the same object when formed from one piece. The prior art two-piece handle and the one-piece handle both function as a handle; the prior art two-piece grate and the one-piece grate both function as a grate. Assuming, *arguendo*, that the integrated laundry center can be formed by a combination of the Sanka and one of the Toshio laundry cabinets, the resulting laundry center does *not* function in the same manner as the individual prior art laundry cabinets. For example, as discussed above, the Sanka and Toshio laundry cabinets each have an associated single drying function, while the integrated laundry center has double drying functions. The difference between single and double drying functions is not trivial; with two drying functions, a user can dry two loads simultaneously or can split a load into items suitable for the first drying function (e.g., a drum type clothes dryer) and items suitable for the second drying function (e.g., a stationary clothes dryer). Second, the *Wolfe* and *Howard* cases both rely on a single prior art reference to show the item of interest as being formed by two pieces, while the Examiner employs more than one prior art reference. As discussed above, the utilization of multiple prior art references in the manner exercised herein to demonstrate that an item has formerly been formed by two pieces is inappropriate.

ii) Chan provides no evidence of the level of ordinary skill in the art or reasonable expectation of success

In the Office Action, the Examiner takes the position that “it is within the level of ordinary skill in the art to integrate the prior art laundry centers having plural discrete spaces to form an integrated laundry center having the claimed plural discrete spaces and one of ordinary skill in the art at the time the invention was made would have a reasonable expectation of success in combining plural discrete spaces of the prior art to arrive at the combined plural discrete spaces as claimed by applicant.” This is an unsupported position. The Examiner has provided no convincing discussion or evidence ascertaining the level of ordinary skill in the art or showing of the reasonable expectation of success. In an attempt to provide evidence, the Examiner points to Chan, which merely discloses a modular storage system. Chan is not

relevant to a laundry center and has no disclosure of providing drying functions in a cabinet assembly. The only evidence provided by Chan is that it is well known to provide modular cabinets. The invention of claim 1, however, is more involved than a simple cabinet structure; it is a laundry center adapted to provide drying functions.

iii) Sanka teaches away from making the combination

“There is no suggestion to combine, however, if a reference teaches away from its combination with another source.” *Tec Air v. Denso*, 192 F.3d, 1353, 1360 (Fed. Cir. 1999). Analysis of the Sanka reference reveals that it teaches away from the combination asserted by the Examiner. Sanka discloses that the upper section (A) can be used as a drying space for the clothes dryer (30) shown in Fig. 1 *or* another type of clothes dryer, such as a rotating drum type clothes dryer. Sanka, therefore, recognizes the existence of multiple clothes dryers yet provides a cabinet for housing only *one* clothes dryer. Moreover, considering that the rotating-type clothes dryer can be utilized in place of the clothes dryer (30), the Toshio references do not teach any more than the Sanka reference with respect to a laundry cabinet with a section for a clothes dryer and a section for washing machine.

iv) The combination renders Sanka, Toshio ‘299, and Toshio ‘096 unsatisfactory for their intended purposes

As stated in § 2143.01 of the MPEP, “If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” In the case of *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984), the Court reversed an obviousness rejection by the Board of Patent Appeals and Interferences based on this principle. The Board determined that modifying a prior art apparatus by turning it upside down made the claims of the pending application obvious. In reversing the Board’s decision, the Court stated, “Indeed, if the [prior art] apparatus were turned upside down, it would be rendered inoperable for its intended purpose... In effect, [the prior art] teaches away from the board’s proposed modification.” *In re Gordon* at 902.

The Sanka cabinet is specifically for use in a narrow space and excels in space efficiency. Similarly, the inventions of both Toshio ‘299 and Toshio ‘096 are directed toward storage units

for washers and dryers that are compact and capable of placement in a utility room, lavatory, or kitchen, which in the typical Japanese home are substantially smaller than in the typical American home. Not only would one looking to develop an extensive, multi-module laundry center not look to references whose focus is on compact storage cabinetry intended for use in small living spaces, but combining the references to make the alleged combination would destroy the intended purpose of the cabinets in each of the three references. The resulting combination suggested by the Examiner would not be able to be used in a narrow space, would not excel in space efficiently, and would not be compact in the sense intended by the individual references.

b) The Sanka and Toshio '299 or Toshio '096 combination does not render the claims obvious

Even if the combination of Sanka with either Toshio '299 or Toshio '096 was proper, the combination still would not reach Applicants' invention. Claim 1 calls for an integrated laundry center to comprise a cabinet assembly comprising interconnected panels that define a first discrete space sized to house a washing machine, a second discrete space sized to house a clothes dryer, and a third, supplemental drying discrete space. Claim 1 further calls for an air moving device for delivering air to the supplemental drying discrete space. As made clear in the Detailed Description, the supplemental drying discrete space of claim 1 is intended to supplement the clothes dryer and to be used for drying items that are not appropriate for the clothes dryer located in the second discrete space. However, the combination of Sanka with either Toshio '299 or Toshio '096 would not result in a cabinet with interconnected panels defining three discrete spaces as asserted in the Office Action. Each of Sanka, Toshio '299, and Toshio '096 disclose a two compartment cabinet structure, with one of the compartments housing a washing machine and another housing a clothes dryer. In the case of Sanka, the dryer is a built-in dryer. In the case of the Toshio patents, the clothes dryer is a stand alone household dryer. Any combination of the Toshio patents with Sanka would result in replacing the built-in dryer of Sanka with the stand alone householder dryer of the Toshio patents, not the addition of a third discrete space housing a different type of clothes dryer. Toshio '096 does teach a third

discrete space, but it is limited to storage only. There is no support in any of the references for a combination that would put one of the clothes dryers in the storage compartment of Toshio '096 or to add another compartment for another type of clothes dryer. Any such combination is based solely on impermissible hindsight reconstruction.

Therefore, the combination of the references disclose nothing more than a cabinet with a washer compartment and a clothes dryer compartment, with the clothes dryer being either built-in or stand alone. This combination does not reach the claimed invention that requires a cabinet assembly with interconnected panels defining three discrete spaces as claimed.

Claims 10, 12-14, 20, and 45-48 depend, directly or indirectly, from claim 1 and, for at least the same reasons, are not unpatentable over Sanka in view of Toshio '299 or Toshio '096.

Claims 12-14, 46, and 47 are grouped with independent claim 1. Claims 10, 20, 45, and 48 are independently patentable of claim 1 and are addressed in sequence below with respect to the alleged combination of Sanka with Toshio '299 or Toshio '096.

Group B: Claim 10

Claim 10 further defines over the alleged combination by incorporating a slidable shelf that is slidable into and out of the cabinet assembly. Sanka discloses a partition that is slidable, but the partition remains inside the cabinet regardless of its sliding position. It functions to separate the upper and lower sections and can be retracted to provide access to the top of the washing machine in the lower section. Thus, the Sanka partition cannot slide out of the cabinet assembly and be used to support items outside the cabinet assembly. The Toshio references disclose a sliding structure that supports the washing machine, but this structure is not a slidable shelf as claimed. Thus, the alleged combination does not include the slidable shelf as the Sanka and Toshio references do not disclose a slidable shelf. Further, it would not be obvious to incorporate a slidable shelf as described in claim 10. Consequently, claim 10 is also independently allowable over the alleged combination.

Group C: Claim 20

Claim 20 depends indirectly from claim 1 through claim 12, which adds a clothes supporting device, and describes the clothes supporting device as comprising at least one horizontal surface having a plurality of perforations permitting air to pass through the horizontal surface. Sanka and the Toshio publications do not teach or suggest utilizing a perforated horizontal surface to support clothes. The Examiner claims that the partition shown in Fig. 7 of Sanka is perforated; however, one cannot deduce from this figure that the partition is perforated. Rather, the partition is illustrated with horizontal lines on the top surface of the partition; these lines can represent numerous things, such as a textured top surface or partition segments that collapse or fold onto one another when the partition is opened. The text does not appear to address these lines or describe what they represent in any manner. Neither Toshio '299 nor Toshio '096 show any type of perforated horizontal surface. Because none of the Sanka or Toshio publications discloses a perforated horizontal surface, as required by claim 20, a combination of Sanka and one of Toshio '299 or Toshio '096 does not have a perforated horizontal surface. Further, it would not be obvious in view of the alleged combination to include a perforated horizontal surface. Thus, claim 20 is also independently allowable over the alleged combination.

Group D: Claim 45

Claim 45 further defines over the prior art by defining the integrated cabinet structure as comprising an integrated frame structure having a plurality of interconnected frame elements. The Examiner suggests that Sanka implicitly discloses the cabinet having a frame structure for fastening panels thereto because Sanka discloses the cabinet being formed by installing panels. On the contrary, it is feasible for the panels to be directly connected to one another without a frame structure, such as by using fasteners, rivets, dove-tail joints, and the like, so the disclosure suggested by the Examiner is *not* implicit. Sanka does not appear to disclose an integrated frame structure for its cabinet, and neither of the Toshio references appears to have such disclosure. It therefore follows the alleged combination does not include the limitations of claim 45, nor would

it be obvious to do so. Thus, claim 45 is also independently allowable over the alleged combination.

Group E: Claim 48

Claim 48 depends from claim 1 and describes the washer discrete space and the clothes dryer discrete space as being joined to form a single discrete space to accommodate the washing machine and the clothes dryer in a stacked or side-by-side configuration. The alleged combination includes two spaces, a space for the washing machine and the space for the clothes dryer, rather than a single space for both the washing machine and the clothes dryer.

Furthermore, none of the references used for the alleged combination include a single discrete space to accommodate the washing machine and the clothes dryer in a stacked or side-by-side configuration. All of the references teach a cabinet with upper and lower spaces separated by a partition. In the Sanka publication, the embodiment illustrating the built-in stationary clothes dryer includes a movable partition between the upper and lower sections. The partition is movable so that a user can access the top of the top-loading washing machine in the lower section, but moving the partition for using the washing machine, as shown in Fig. 5, temporarily causes the upper section to be unusable as a drying chamber because the air from the clothes dryer could not be contained within the upper section. Thus, the upper and lower sections are not intended to be used as a single space. Assuming that a stand alone, drum type clothes dryer substituted for the built-in stationary clothes dryer, it is not feasible to arrange the washing machine and the clothes dryer in a stacked configuration if partition was moved to an open position because the washing machine is top-loading: the user could not access the top of the washing machine in a stacked configuration. The Toshio references both disclose a stationary partition that separates the laundry cabinet into the upper and lower chambers and prevents the clothes dryer and the washing machine from being stacked. Additionally, the lower chamber is equipped with a top-loading washing machine, which rests on a slidable structure so that the washing machine can be pulled from the laundry cabinet to access the top of the washing machine. Thus, even if the partition was removed from the laundry cabinet, the clothes dryer

cannot be stacked on top of the washing machine because such a configuration would render the washing machine unusable.

It therefore follows the alleged combination does not include the limitations of claim 48, nor would it be obvious to do so. Thus, claim 48 is also independently allowable over the alleged combination.

Applicants request the withdrawal of the rejection of claims 1, 10, 12-14, 20, and 45-48, and the allowance of claims 1, 10, 12-14, 20, and 45-48.

4. Rejection under 35 U.S.C. § 103(a) over Sanka in view of Toshio '299 or Toshio '096, and further in view of Proctor

Proctor discloses a cabinet-type drying machine in which the material to be dried is supported in a drying compartment (B) and is subjected to heat furnished by a heating coil (G) in an air heating compartment (C) and circulated through the drying compartment (B) by air moving fans (D). The drying machine includes slides or drawers (F) that are capable of being fully or partially withdrawn from the drying compartment (B) while the material is placed in them and being

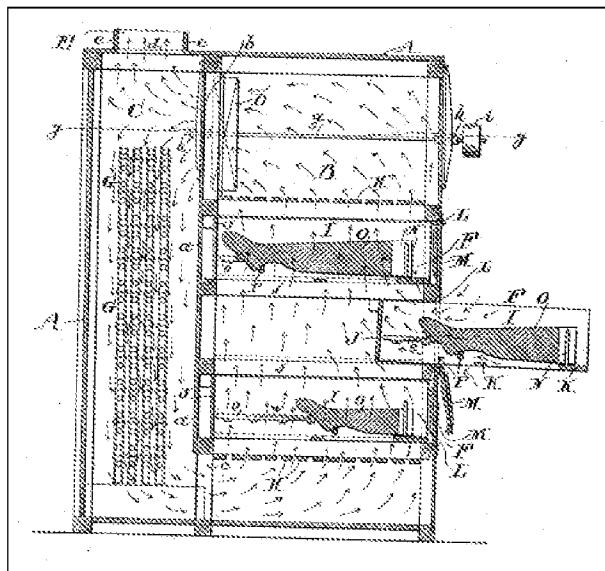


FIG. 1 OF PROCTOR

returned within the drying compartment (B) during the drying process. Each slide (F) is formed by a frame consisting of side pieces (I), back pieces (J), and a pair of cross braces (K). The slides (F) have an open-front and are closed by a door (M) mounted on the drying machine when the slides (F) are fully received within the drying compartment (B).

Group F: Claims 15, 16

a) The combination of Sanka with Toshio '299 or Toshio '096 and further with Proctor is improper

The addition of Proctor to the underlying combination of Sanka and Toshio '299 or Toshio '096 does not remedy the previously described deficiencies in the underlying combination. As discussed above, the Examiner has failed to comply with the requirements for a finding of obviousness under 35 USC § 103(a) for the underlying combination. For the current combination, the Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of combining Sanka with either Toshio '299 or Toshio '096 and with Proctor to arrive at Applicants' invention. There has been no statement identified in the prior art as to the desirability of the asserted combination, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka with either Toshio '299 or Toshio '096 and with Proctor. The Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

i) Adding Proctor to the alleged combination is untenable

Applicants contend that adding Proctor to the combination of Sanka with either Toshio '299 or Toshio '096 is unfeasible. The Examiner suggests modifying the drying cabinet of Sanka with the slidable drawers of Proctor. It is assumed that the Examiner intended to suggest modifying the alleged combination of Sanka and one of the Toshio references with the slidable drawers of Proctor. As stated above, the alleged combination of Sanka and one of the Toshio references results in replacing the built-in dryer of Sanka with the stand alone householder dryer of the Toshio patents. Thus, the alleged combination includes neither the built-in dryer nor the space for holding items to be dried for the built-in dryer. Without a space for holding items to be

dried by the built-in dryer, the alleged combination cannot include the slidable drawers of Proctor.

ii) The combination of Sanka with Proctor (Toshio references removed from the alleged combination) is improper

In order to include the Proctor drawers, as suggested by the Examiner, Toshio '299 or Toshio '096, whichever is employed, must be removed from the alleged combination. Applicants, however, traverse a combination of Sanka and Proctor. As discussed above, the Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka with Proctor. Additionally, Sanka specifically teaches hanging clothes in the upper section by a hanger and does not mention using any other type of clothes support, including a shelf, slide, or drawer that is slidable into and out of the cabinet assembly, in the upper section. Furthermore, Proctor teaches a drying machine that is a stand alone unit with a single heating system for a single air heating compartment that holds a plurality of slides and does not suggest utilizing the drying machine in a cabinet of an integrated laundry center.

b) The Sanka and Proctor combination does not render the claims obvious

Assuming, *arguendo*, that the combination of Sanka and Proctor is tenable, the combination still does not reach the claimed invention. The alleged combination would essentially result in the Sanka cabinet with the upper section, including the clothes dryer, replaced with the Proctor drying machine, which is, at best, a dryer or a supplemental dryer but not an entire system with a dryer and a supplemental dryer. As discussed above, claim 1 recites a cabinet having a plurality of interconnecting panels that define a washer discrete space sized to house a washing machine, a clothes dryer discrete space sized to house a clothes dryer, and a separate supplemental drying discrete space and an air moving device to supply air to the supplemental drying discrete space. The alleged combination does not include these features. In particular, the alleged combination does not have a plurality of interconnecting panels that define *three* discrete spaces: a washing machine discrete space, a clothes dryer discrete space, and a

supplemental drying discrete space. Rather, the alleged combination has interconnecting panels that define only *two* of the discrete spaces. Furthermore, the differences between the alleged combination and the integrated laundry center of claim 1 are not obvious in view of the alleged combination. Claim 1 is, therefore, patentable over the alleged combination.

Because claims 11, 15, 16, and 21-24 depend, indirectly, from claim 1, claims 11, 15, 16, and 21-24 are patentable over Sanka in view of Proctor, with or without Toshio '299 or Toshio '096.

Claims 15 and 16 are grouped together and are patentable over the alleged combination due to their dependency on claim 1. Claims 11 and 21-24 are independently patentable of claim 1 and are addressed in sequence below with respect to the alleged combination of Sanka and Proctor, with or without Toshio '299 or Toshio '096.

Group G: Claim 11

Claim 11, which depends from claim 1 through claim 10, further defines over the alleged combination and calls for at least two of the slidable shelves, wherein one is usable as a clothes folding shelf and the other is usable as a retractable support surface. The slides of Proctor, which are incorporated in the alleged combination, are formed by the frame consisting of the side pieces, the back pieces, and the pair of cross braces and do not provide a shelf, much less a shelf that can be used as a folding shelf as the clothes would fall between the cross braces or between the back piece and one of the cross braces. Further, it would not be obvious to one of ordinary skill in the art to incorporate such a shelf into the alleged combination. It therefore follows that claim 11 is independently patentable over the alleged combination.

Group H: Claim 21

Claim 21 depends from claim 20, and, as discussed above, claim 20 describes the clothes supporting device as comprising at least one horizontal surface having a plurality of perforations permitting air to pass through the horizontal surface. Claim 21 specifies that the supplemental drying discrete space comprises a horizontal drying discrete space including a plurality of the

perforated horizontal surfaces stacked on top of and spaced from one another. The alleged combination does not include a clothes supporting device comprising a perforated horizontal surface. Similar to the argument presented above with respect to claim 11, the slides of Proctor are formed by a frame and do not include a horizontal surface that can support clothes, much less a perforated horizontal surface, as required by claim 20, or a plurality of stacked and spaced perforated horizontal surfaces, as required by claim 21. Additionally, it would not be obvious to one of ordinary skill in the art to incorporate these features into the alleged combination. Thus, claim 21 is independently patentable over the alleged combination.

Group I: Claims 22, 23

Claims 22 and 23 depend from claim 20 and specify that the clothes supporting device is at least one drawer (claim 22) or a plurality of the drawers (claim 23) with a bottom surface formed by the perforated horizontal surface. The alleged combination does not include a clothes supporting device comprising one or more drawers, wherein each drawer has a perforated bottom surface. Similar to the argument presented above with respect to claim 21, the frame structure of the Proctor slides do not constitute a horizontal clothes supporting surface, much less a perforated horizontal surface for supporting clothes. Additionally, it would not have been to include a drawer with such a bottom surface in the alleged combination. Consequently, claims 22 and 23 are independently patentable over the alleged combination.

Group J: Claim 24

Claim 24 further defines over the alleged combination by adding a decorative exterior front fascia panel that covers a front surface of the drawer from claim 22. The slides of Proctor, which are utilized to make the alleged combination, do not have a front panel that covers a front surface of the slide and, therefore, do not have a decorative front fascia panel. Rather, the Proctor slides have an open-front and are closed by the door mounted on the drying machine when fully received within the drying compartment. Further, it would not be obvious to one of ordinary skill in the art to incorporate a decorative front fascia panel into the alleged

combination. Thus, claim 24 is also independently patentable over the alleged combination.

Applicants request the withdrawal of the rejection of claims 11, 15-16, and 21-24, and the allowance of claims 11, 15-16, and 21-24.

5. Rejection under 35 U.S.C. § 103(a) over Sanka in view of Toshio '299 or Toshio '096, and further in view of Rice

Rice discloses a portable drying device that can be used for drying or warming the insides of boots, gloves, mittens, and other clothing articles used for protecting extremities of a person's body in snow or inclement weather. The drying device includes a heater/air blower assembly (16) for producing a blowing stream of hot air (A) and a duct assembly (18). The duct assembly (18) includes a manifold (19) for splitting the air stream from the air blower assembly (16) into two streams. A pair of hoses or duct tubes (20, 22) conduct the two air streams (A) from the manifold (19) to the interiors of a pair of boots, gloves, or other clothing articles to be

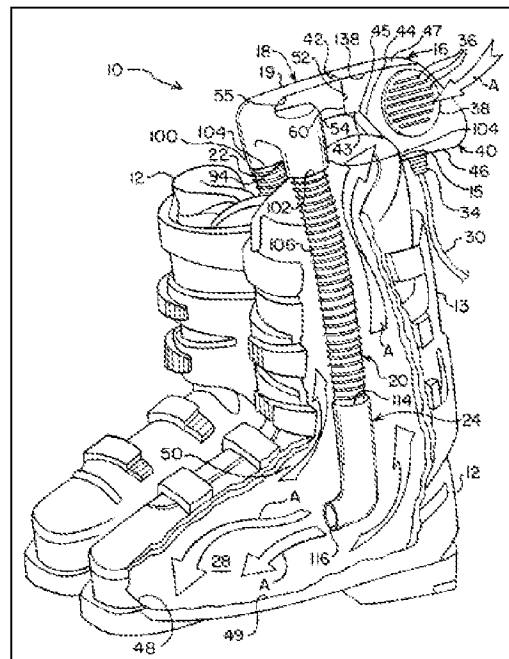


FIG. 1 OF RICE

dried, and optional nozzles (24, 26) direct the air stream (A) in the boots (12) or (gloves 14). The air stream (A) discharged through hose nozzles (24, 26) circulates within the interior of the boots (12) or gloves (14) before exiting, thus warming and drying the inside (28) of the boots (12) or gloves (14). The portable dryer is designed to be stored in a pair of boots (12) when not in use.

a) The combination of Sanka with Toshio '299 or Toshio '096 and further with Rice is improper

As discussed above, the Examiner has failed to comply with the requirements for a finding of obviousness under 35 USC § 103(a). The Examiner has failed to identify any motivation, suggestion, or teaching of the desirability of combining Sanka with either Toshio '299 or Toshio '096 and with Rice to arrive at Applicants' invention. There has been no statement identified in the prior art as to the desirability of the asserted combination, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the combined teachings, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The Examiner has failed to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Sanka with either Toshio '299 or Toshio '096 and with Rice. The Examiner has simply relied upon "broad conclusory statements standing alone," which can only lead to the conclusion that the Examiner is simply relying on impermissible hindsight reconstruction of Applicants' invention.

i) The combination renders Rice unsatisfactory for its intended purpose

As discussed above with respect to the third ground of rejection, if a proposed modification renders the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. The Examiner suggests combining the cabinet of Sanka with the portable boot dryer of Rice. It is assumed that the Examiner intended to suggest modifying the alleged combination of Sanka and one of the Toshio references with the portable boot dryer of Rice. However, such a combination would destroy the intended purpose of Rice. Rice specifically describes an independently operable and portable boot and glove dryer and does not discuss utilizing the dryer in combination with any other device, much less in a cabinet of an integrated laundry center. Not only would it not be obvious to one of ordinary skill in the art to incorporate the portable boot dryer of Rice in the cabinet of the alleged combination of Sanka and one of the Toshio

references, considering that a primary feature of the Rice boot dryer is that it is portable and can be used independently of other devices, but making such an incorporation renders the Rice boot dryer unsatisfactory for its intended portability purposes. It is therefore submitted that the alleged combination of Sanka in view either Toshio '299 or Toshio '096 and further in view Rice is inappropriate.

ii) Adding Rice to the alleged combination is untenable

Even if the combination were proper, the combination of the autonomous, portable Rice boot dryer with Sanka and either Toshio '299 or Toshio '096 would be completely impractical, if not impossible. At best, the combination would comprise a cabinet with separate spaces for storing a washing machine and a clothes dryer, with a portable boot dryer somehow attached to the cabinet, perhaps through an electrical cord. The size and configuration of the cabinet and portable boot dryer are so different as to make the asserted combination untenable. The asserted combination simply cannot be made.

Thus, Rice does not correct the deficiencies discussed above with respect to the combination of Sanka with either Toshio '299 or Toshio '096 relative to claim 1. Claims 17-19 depend, indirectly, from claim 1. Consequently, claims 17-19 are not obvious and are not unpatentable over Sanka in view of Toshio '299 or Toshio '096, with or without Rice.

Applicants request the withdrawal of the rejection of claims 17-19, and the allowance of claims 17-19.

CONCLUSION

In view of the foregoing, it is submitted that the rejection of claims 1, 10-24, and 45-48 is improper and should not be sustained. Therefore, a reversal of the rejections of claims 1, 10-24, and 45-48 is respectfully requested.

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Filed: October 16, 2003
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Examiner: Joseph L. Perrin
Group Art Unit: 1746

Respectfully submitted,

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VIII. CLAIMS APPENDIX

1. (Previously Presented) An integrated laundry center comprising:
an integrated cabinet assembly comprising a plurality of interconnecting panels that define a plurality of discrete spaces including:
a washer discrete space sized to house a washing machine;
a clothes dryer discrete space sized to house a clothes dryer; and
at least one supplemental drying discrete space; and
an air moving device arranged to deliver air to the supplemental drying discrete space.
2. (Withdrawn) The integrated laundry center according to claim 46, wherein at least a portion of the interconnecting panels comprise the exterior decorative fascia panels.
3. (Withdrawn) The integrated laundry center according to claim 1, wherein the cabinet assembly is adapted to allow the washing machine to be slidable into and out of the washer discrete space.
4. (Withdrawn) The integrated laundry center according to claim 1, wherein the cabinet assembly is adapted to allow the clothes dryer to be slidable into and out of the dryer discrete space.
5. (Withdrawn) The integrated laundry center according to claim 1, wherein the cabinet assembly is adapted to allow the washing machine to be securely mounted within the washer discrete space for allowing a wash basket of the washing machine to be accessible from an exterior of the cabinet assembly.
6. (Withdrawn) The integrated laundry center according to claim 1, wherein the cabinet assembly is adapted to allow the clothes dryer to be securely mounted within the dryer discrete space for allowing a dryer drum of the dryer to be accessible from the exterior of the cabinet assembly.

7. (Withdrawn) The integrated laundry center according to claim 46, wherein the decorative fascia panels are removable from the cabinet assembly and replaceable on the cabinet assembly.

8. (Withdrawn) The integrated laundry center according to claim 46, wherein the decorative fascia panels are selectable from a variety of different fascia panels.

9. (Withdrawn) The integrated laundry center according to claim 1, further comprising:
at least one clothes folding surface formed as a part of the cabinet assembly.

10. (Previously Presented) The integrated laundry center according to claim 1, further comprising:
a slidable shelf that is slidable into and out of the cabinet assembly.

11. (Original) The integrated laundry center according to claim 10, further comprising:
at least two of the slidable shelves, wherein one of the shelves is useable as a clothes folding shelf and another of the shelves is disposed near the washing machine and the clothes dryer and is usable as a retractable support surface.

12. (Previously Presented) The integrated laundry center according to claim 1, wherein the at least one supplemental drying discrete space further comprises:
at least one clothes supporting device therein.

13. (Original) The integrated laundry center according to claim 12, wherein the clothes supporting device is a rod that extends across an upper end of the supplemental drying discrete space and is adapted to support a plurality of wet clothes carried on clothes hangers suspended from the rod, and wherein the supplemental drying discrete space is a hanging clothes discrete space large enough to hold hanging clothes such as shirts and pants.

14. (Previously Presented) The integrated laundry center according to claim 12, further comprising:
an open front side of the supplemental drying discrete space; and
a cover panel that can be opened for providing access into the supplemental drying discrete space and can be closed to cover the open front side, wherein the cover panel is a decorative exterior fascia panel.

15. (Original) The integrated laundry center according to claim 12, wherein the clothes supporting device is a slidable rack that is slidable into and out of the supplemental drying discrete space and is adapted to support a plurality of wet clothes hanging from the rack.

16. (Original) The integrated laundry center according to claim 15, wherein the supplemental drying discrete space is a drying rack discrete space large enough to hold hanging clothes such as socks, underwear and stockings.

17. (Original) The integrated laundry center according to claim 12, wherein the clothes supporting device further comprises:

at least two shoe dryers housed in the supplemental drying discrete space, each shoe dryer adapted for supporting a shoe above a bottom surface of the supplemental drying discrete space.

18. (Previously Presented) The integrated laundry center according to claim 17, wherein each of the shoe dryers further comprises:

a stem supported on the bottom surface of the supplemental drying discrete space;
an upper stem end adapted to be received within and to support a shoe; and
an air flow outlet terminating near the upper stem end and communicating with an air moving device for delivering air into the shoe supported on the shoe dryer.

19. (Previously Presented) The integrated laundry center according to claim 17 wherein each of the shoe dryers further comprises:

a stem supported on the bottom surface of the supplemental drying discrete space;

an upper stem end adapted to be received within and to support a shoe; and
an air flow passage extending through the stem and terminating at an air outlet in
the upper end, the air flow passage communicating with an air moving device.

20. (Original) The integrated laundry center according to claim 12, wherein the
clothes supporting device further comprises:

at least one horizontal surface supported by the cabinet assembly within the
supplemental drying discrete space, the horizontal surface having a plurality of perforations
permitting air to pass through the horizontal surface.

21. (Original) The integrated laundry center according to claim 20, wherein the
supplemental drying discrete space is a horizontal drying discrete space including a plurality of
the horizontal surfaces stacked on top of and spaced from one another within the horizontal
drying discrete space.

22. (Original) The integrated laundry center according to claim 20, wherein the
clothes supporting device is at least one drawer and the at least one horizontal surface is a bottom
surface of the drawer.

23. (Previously Presented) The integrated laundry center according to claim 22,
further comprising:

a plurality of the drawers slidable into and out of the supplemental drying
discrete space, each drawer having a bottom surface defined by a respective one of the horizontal
surfaces, and each drawer communicating with the air moving device for circulating air through
each horizontal surface and each drawer.

24. (Previously Presented) The integrated laundry center according to claim 22,
wherein the at least one drawer further includes a decorative exterior front fascia panel covering
a front surface of the drawer.

25. (Withdrawn) The integrated laundry center according to claim 1, further

comprising:

a control system having a user interface operable by a user to control operation parameters of the washing machine, the clothes dryer and the air moving device.

26. (Withdrawn) The integrated laundry center according to claim 25, wherein the user interface includes a touch screen electronically coupled to the washing machine and the clothes dryer, and wherein the display screen provides operation parameter information for the washing machine and the clothes dryer that can be accessed and selected by the user.

27. (Withdrawn) The integrated laundry center according to claim 1, wherein the plurality of interconnecting panels further define:

an ironing discrete space sized to store at least one of an ironing board and an iron within the ironing discrete space, the cabinet assembly being adapted to allow the ironing board to be mounted within the ironing discrete space for allowing the ironing board to be movable between a storage position within the ironing discrete space and an ironing position at least partly extended from the ironing discrete space.

28. (Withdrawn) The integrated laundry center according to claim 27, wherein the ironing discrete space includes a connection to a source of steam configured to be coupled to the iron.

29. (Withdrawn) The integrated laundry center according to claim 1, wherein the plurality of interconnecting panels further define:

a vacuum discrete space sized to store a vacuum cleaner.

30. (Withdrawn) The integrated laundry center according to claim 29, wherein the cabinet assembly further comprises:

a built in vacuum pump built for allowing an elongate flexible hose to be connected to between the vacuum pump and the vacuum for allowing the vacuum to be extended from the vacuum discrete space for vacuuming.

31. (Withdrawn) The integrated laundry center according to claim 1, wherein the plurality of interconnecting panels further define:

at least one chemical storage discrete space sized to store chemical products and product containers used for fabric care.

32. (Withdrawn) The integrated laundry system according to claim 1, wherein the plurality of interconnecting panels further define:

a television discrete space sized to carry a television.

33. (Withdrawn) The integrated laundry system according to claim 1, wherein the plurality of interconnecting panels further define:

an audio system discrete space sized to carry an audio system.

34. (Withdrawn) A supplemental clothes drying system comprising:
a cabinet structure defining at least one discrete space therein;
at least one drawer slidable into and out of the discrete space, the drawer having a perforated bottom surface,

an air inlet and air outlet communicating with the discrete space; and

an air moving device arranged to circulate air through the perforated bottom surface and the discrete space via the inlet and the outlet.

35. (Withdrawn) The supplemental clothes drying system according to claim 35, further comprising:

a plurality of drawers arranged vertically relative to one another.

36. (Withdrawn) A method of designing an integrated laundry center, the method comprising the steps of:

providing a database containing information on at least a plurality of optional laundry center functional modules, optional module decorative features, and optional equipment;

accessing the database;

displaying the optional functional modules, decorative features, and equipment;

selecting desired ones of the functional modules, decorative features, and equipment; and

specifying a desired arrangement for the selected modules, decorative features, and equipment.

37. (Withdrawn) The method according to claim 37, wherein the step of providing further comprises:

providing an electronic database.

38. (Withdrawn) The method according to claim 37, wherein the step of accessing further comprises:

connecting to an Internet website of a laundry center provider and accessing the database using a computer.

39. (Withdrawn) The method according to claim 37, wherein the step of displaying further comprises:

displaying the optional functional modules, decorative features, and equipment on a computer screen.

40. (Withdrawn) The method according to claim 37, wherein the step of selecting further comprises:

interacting with a computer to select certain optional functional modules, decorative features, and equipment displayed on a computer screen.

41. (Withdrawn) The method according to claim 37, wherein the step of specifying further comprises:

manipulating images representing the selected functional modules, decorative features, and equipment and displayed on a computer screen to rearrange the images according to a desired arrangement.

42. (Withdrawn) The method according to claim 37, wherein the step of specifying

further comprises:

entering data into a computer wherein the data represents at least room dimensions for a room into which the designed laundry center is to be installed.

43. (Withdrawn) The method according to claim 37, further comprising:
submitting a designed laundry center including the selected and arranged functional modules, decorative features, and equipment to a professional laundry center designer by downloading the designed laundry center to an Internet website of the designer.

44. (Withdrawn) The method according to claim 37, further comprising:
submitting a purchase order for a designed laundry center including the selected and arranged functional modules, decorative features, and equipment to a laundry center provider.

45. (Previously Presented) The integrated laundry center of claim 1, wherein the integrated cabinet assembly further comprises:
an integrated frame structure having a plurality of interconnected frame elements.

46. (Previously Presented) The integrated laundry center according to claim 1 and further comprising a plurality of exterior decorative fascia panels carried by the cabinet assembly.

47. (Previously Presented) The integrated laundry center according to claim 1, wherein the air moving device is arranged to deliver air to the supplemental drying discrete space through an air inlet in communication with the supplemental drying discrete space, the supplemental drying discrete space in further communication with an air outlet for allowing air to circulate air through the drying discrete space.

48. (Previously Presented) The integrated laundry center according to claim 1, wherein the washer discrete space and the clothes dryer discrete space join to form a single discrete space to accommodate the washing machine and the clothes washer in one of a stacked

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or side-by-side configuration.

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IX. EVIDENCE APPENDIX

No evidence has been entered by the Examiner or Appellants into the record.

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X. RELATED PROCEEDINGS APPENDIX

There being no decision rendered by a court or the Board in any related proceeding, none is listed here.